

**REMARKS**

The foregoing Amendment and the following Remarks are submitted in response to the Office Action issued on May 11, 2006 in connection with the above-identified application, and are being filed within the three-month shortened statutory period set for a response by the Office Action.

Claims 1-3, 5-12, and 26-29 are pending in the present application as amended. Claims 4, and 13-25 have been canceled and claims 26-29 have been added. Independent claim 1 and dependent claims 2 and 3 have been amended. Only claim 1 is now independent. Applicants respectfully submit that no new matter has been added to the application by the Amendment.

The Examiner has rejected the claims under 35 USC § 101 as reciting non-statutory subject matter. Applicants respectfully traverse the section 101 rejection insofar as it maybe applied to the claims as amended.

According to the Examiner, the now-canceled claims recited a gathering of information without any practical application of the gathered information. Accordingly, in amending claim 1, Applicants have taken care to include a recitation of a practical application of the gathered information, specifically, “performing a context-dependent evaluation of the results of the search engine based at least in part on the determined context data and the determined user feedback data”. That is to say, the point of gathering the information is to evaluate the search engine, and particularly the search results provided thereby, based on such gathered information. Applicants wish to remind the Examiner that in an informal telephone conversation with the undersigned on August 9, 2006, the Examiner positively viewed such amendment of claim 1 with regard to overcoming the section 101 rejection.

Based on the recitation of a practical application within the claims, then, Applicants respectfully submit that the claims are statutory. Thus, Applicants respectfully request reconsideration and withdrawal of the section 101 rejection.

The Examiner has rejected claims 1-3 and 9-12 under 35 USC § 102 as being anticipated by Biebesheimer (U.S. Patent Publication No. 2002/0152190). In addition, the Examiner has rejected claims 5-8 under 35 USC § 103 as being obvious over the Biebesheimer reference, and further in view of material disclosed at <http://whatis.techtarget.com> ("whatis"). Applicants respectfully traverse the section 102 and 103 rejections insofar as they may be applied to the claims as amended.

Independent claim 1 as amended recites a method that is performed with regard to a user performing a search at a search engine by way of a search mechanism (a browser, e.g.). As will be seen, the method is performed to evaluate the search engine, but is performed based on information collected at the search mechanism / browser.

In particular, in claim 1, the search mechanism is monitored for user behavior data regarding interactions between the user and the search mechanism during performance of the search thereat. The user behavior data is data concerning a plurality of events, where each event corresponds to an action of the user at the search mechanism during the search. Thus, and as examples, the user behavior data may include data that describes a user sending a particular search string to the search engine from which particular results are received from the search engine, selecting a first one of the particular results, discarding the first one, selecting a second one of the particular results, discarding the second one, modifying the search string and sending same to the search engine, etc.

Notably, the user behavior data represents not merely that a search string was entered and results were obtained, but instead each action that the user performed. Thus, such actions in combination with the search results may be employed to collectively describe the search in detail. More importantly, such a collective detailed description of the search may be evaluated to determine how the user perceived the search, and more importantly whether the search engine provided acceptable search results or was wanting, and if so, how. Thus, such an evaluation can for example be employed to modify the processes of the search engine, or even to determine whether the search engine is a preferred search engine or a search engine to be avoided, among other thing.

At any rate, the search mechanism is also monitored for response data regarding the search, where the response data includes a results list (i.e., a list of search results), and context data is determined that describes the search. As should now be evident, the context data is derived from both the user behavior data and from the response data and represents an overall context of the search. That is, the context data describes both what the user received from the search engine (i.e., the response data), and what the user did with the response data (i.e., the context data).

In addition, user feedback data is determined, where the user feedback data describes the search. Such user feedback data includes implicit user feedback derived from the user behavior data and explicit user feedback derived from at least one question to the user regarding the search and the response to the question. That is, the implicit user feedback data in particular is extrapolated from the user behavior data, and for example may include based on the user behavior data that the user liked one result from the results list but not another, or that the user was satisfied with one results list but not another, and the like. In

contradistinction, the explicit user feedback data requires no extrapolation but instead is more in the nature of a response to a query, such as “Did you like this result?”

Once the context data and user feedback data are compiled, then, a context-dependent evaluation of the results of the search engine is performed based at least in part on the determined context data and the determined user feedback data. That is, all of such data is analyzed to make a determination regarding the search engine, such as for example whether the search engine gives good results.

The Biebesheimer reference discloses an adaptive resource indexing and lookup method and system for a customer self service system that performs resource search and selection and includes a resource library having selectable resources. As set forth in more detail, the Biebesheimer method is performed in connection with a user entering a search query, and is performed to generate a response set in response to the search query. In contrast, the present invention as recited in the claims of the present application is not performed to generate such a response set, but instead is performed to evaluate how the user reacts to such a response set. Put another way, the present invention as recited in the claims is external to the request and response that occurs between a user and a search engine or the like, and interacts with the search mechanism / browser of the user only to gather data relating to such interaction.

Inasmuch as the Biebesheimer method is performed in the context of a search and not in the context of evaluating such a search, such Biebesheimer method does not monitor the search mechanism / browser for user behavior data regarding interactions between the user and the search mechanism / browser during performance of the search thereat, as is required by claim 1, where the user behavior data comprises data concerning a

plurality of events, and where each event corresponds to an action of the user at the search mechanism / browser during the search. Similarly, the Biebesheimer method does not determine context data that describes the search, where the context data is being derived from the user behavior data and from response data and represents an overall context of the search, as is required by claim 1.

Moreover, the Biebesheimer method does not determine user feedback data that describes the search, where the user feedback data includes both implicit user feedback derived from the user behavior data and explicit user feedback derived from at least one question to the user regarding the search and the response to the question, as is required by claim 1. Finally, the Biebesheimer method does not perform any context-dependent evaluation of the results of the search engine based at least in part on the determined context data and the determined user feedback data, as is required by claim 1.

Accordingly, and for all of the aforementioned reasons, Applicants respectfully submit that the Biebesheimer reference does not in fact disclose the subject matter recited in independent claim 1 or any claims depending therefrom including claims 2, 3, 5-12, and 26-29. Moreover, Applicants respectfully submit that the whatis reference is inapplicable to claim 1 inasmuch as claim 1 includes none of the 'state machine' subject matter of claims 5-8. Thus, inasmuch as independent claim 1 has been shown to be unanticipated and is non-obvious in view of the whatis reference, then so too must all claims depending therefrom including claims 2, 3, 5-12, and 26-29 be unanticipated and non-obvious, at least by their dependency.

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**PATENT**

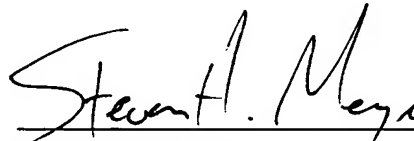
Accordingly, Applicants respectfully request reconsideration and withdrawal of the section 102 and 103 rejections insofar as they may be applied to the claims as amended.

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In view of the foregoing, Applicants respectfully submit that the present application including claims 1-3, 5-12, and 26-29 is in condition for allowance, and such action is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven H. Meyer", is written over a horizontal line.

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